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10/501,072

07/09/2004

Ralf Fink

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EXAMINER

SELLMAN, CACHET I

ART UNIT

PAPER NUMBER

1715

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/501,072
Filing Date: July 09, 2004
Appellant(s): FINK ET AL.

Kirsten A. Gruneberg
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/28/2010 appealing from the Office action mailed 6/11/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 7-11, 17-20, 22-25, 27 and 29 are rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

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subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

JP 63020381	TSUCHIKO	1-1988
JP 2002309185	AKIYAMA	10-2002
JP 11228629	KAMIYA	08-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

A. *Claims 7-8, 10, 19-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuchiko (JP 63020381).*

Tsuchiko discloses a mixture which comprises a radiation curable composition, a compound having at least two ethylenically unsaturated double bonds, and a pressure sensitive adhesive, an acrylic polymer wherein the adhesive is crosslinkable by uv radiation (see English abstract) as required by claim 7. The radiation curable composition comprises 100% of the polymerizable compound having ethylenically unsaturated groups as required by claim 8. The mixture comprises an acrylic adhesive as required by claim 19.

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B. Claims 9, 11, 17-18, 24-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuchiko as applied above in view of Akiyama et al. (JP 2002309185).

Tsuchiko fails to teach that the compound A comprises carbonate or urethane meth(acrylates) as required by claim 9.

However, it was well known in the art at the time of the invention to use such radiation curable compounds in a composition to provide an adhesive having pressure sensitive properties as taught by Akiyama et al. It would have been obvious to one having ordinary skill in the art to use the curable compounds of Akiyama et al. in the process of Tsuchiko because it is merely substituting one usable compound for another.

Tsuchiko fails to state that the composition has the percentages of each component as claimed in claim 11. However, it would have been obvious to one having ordinary skill in the art to adjust the percentages using routine experimentation to the claimed range in order to provide an adhesive with adequate adhesion properties for the end use.

In regards to claims 17 and 18, Tsuchiko fails to teach that the compositing is applied to a plastic, glass or metal substrate as required. However, Akiyama et al. teaches a radiation curable adhesive which is used to coat plastics, glass or metals to provide a protective coating therefore it would have been obvious to one having ordinary skill in the art to use the composition of Tsuchiko to the substrates as described by Akiyama et al.

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In regards to claim 24, the adhesive is an acrylic adhesive.

C. *Claims 23 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuchiko as applied above in view of Kamiya (JP 11228926).*

The teachings of Tsuchiko are as stated above in regards to claim 7. However, Tsuchiko fails to teach that the acrylic adhesive has a molecular weight of 200 000 and 1 500 000 g/mol as required by claims 23 and 29.

However, it was well known in the art at the time of the invention to use acrylic adhesives having molecular weights of 100 000 – 700 000 when providing radiation curable pressure sensitive adhesive compositions as taught by Kamiya. Therefore it wouldit would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tsuchiko to include such acrylic adhesives in order to provide a composition having improved applicability and radiation curability.

In regards to claims 28- 29,

Tsuchiko fails to state that the composition has the percentages of each component as claimed. However, it would have been obvious to one having ordinary skill in the art to adjust the percentages using routine experimentation to the claimed range in order to provide an adhesive with adequate adhesion properties for the end use.

(10) Response to Argument

Applicants argue that the simple acrylic polymer of Tsuchiko does not have polymerizable groups and therefore it cannot be crosslinkable by active radiant energy,

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and that the acrylic resin is not necessarily an adhesive therefore the claim is not anticipated by Tsuchiko. However the Examiner disagrees, Tsuchiko teaches forming a radiation curable **pressure sensitive adhesive** where the composition comprises an acrylic polymer, a compound having one ethylenically unsaturated double bond which is capable of being crosslinked by active radiation energy, especially since it states that the material is exposed to ultraviolet beams. The claim does not state that the composition and adhesive (I), (II) cannot be the same materials therefore the radiation curable pressure sensitive adhesive mixture which is described by Tsuchiko meets the limitation of comprising a pressure sensitive adhesive and a radiation curable composition.

As to the applicant's arguments that the acrylic acid is not an adhesive, the composition as a whole with the acrylic resin and other components is a radiation curable pressure sensitive adhesive and again as stated above, the applicant's does not limit the claim to where the radiation curable composition and the pressure sensitive adhesive are two distinct materials.. The mixture of the acrylic polymer, a compound having one ethlenically unsaturated double bond in a molecule, a compound having two ethlenically unsaturated double bonds comprises a radiation curable composition and a pressure sensitive adhesive.

Applicant's argue that the Examiner states that "every acrylic polymer is an acrylic adhesive which is crosslinkable by active radiant energy," which in not a correct state. The Examiner did not state that **every** acrylic polymer is an acrylic adhesive which is crosslinkable by active radiant energy.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/C. I. S./

Examiner, Art Unit 1715

Conferees:

/Timothy H Meeks/

Supervisory Patent Examiner, Art Unit 1715

/Christopher A. Fiorilla/

Chris Fiorilla

Supervisory Patent Examiner, Art Unit 1700